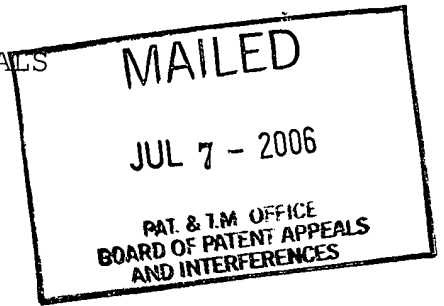


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte YOSHINOBU SERA

Application No. 09/855,149



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

January 11, 2006, appellant filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) **Summary of claimed subject matter.** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function

must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of January 11, 2006 defective;
- 2) request applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief,
- 4) vacate the Examiner's Answer mailed February 28, 2006, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 5) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

DALE M. SHAW  
Deputy Chief Appeal Administrator  
(571) 272-9797

Application No. 09/855,149

HAYES, SOLOWAY, P.C.  
3450 E. SUNRISE DRIVE  
SUITE 140  
TUCSON, AZ 85718

DMS/dal